



STBA BULLETIN



MEMBER'S MONTHLY E-NEWSLETTER
SILIGURI TAXATION BAR ASSOCIATION

OCTOBER 2023



***LISTEN! THE WIND IS RISING, AND THE AIR IS WILD WITH LEAVES.
WE HAVE HAD OUR SUMMER EVENINGS, NOW FOR OCTOBER EVES!***

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Swagata Bhattarcharjee, Advocate

Editor & Newsletter Committee Chairman

CA Manish Agarwal
+91 97333 28000

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Disclaimer

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OUR OFFICES:

- ➔ 2nd Floor, Central Revenue Building, Haren Mukherjee Road, Hakimpara, Siliguri – 734001
- ➔ Aaykar Bhawan, Ground Floor, Matigara – 734010
- ➔ SGST Office, Directorate of Commercial Taxes, Paribhan Nagar, Matigara 734010

REACH US AT:

Website: www.siliguritaxationbar.org

Email: stbaslg@gmail.com

President – CA Sanjeev Agarwal – 98320 61298

Secretary – Adv Vinit Agarwal – 98320 65666

Staff - Mr Mritunjoy Dhar – 89183 95245



Dear esteemed members of Siliguri Taxation Bar Association,

I trust this message finds you in good health and high spirits.

Last month, we hosted a successful seminar on faceless assessment and tax audit, drawing insights from over 80 engaged participants. Your active involvement is the lifeblood of our association, and I appreciate the enthusiasm you bring to these events.

September proved to be a demanding month, primarily due to the completion of audit reports. The dedication and professionalism exhibited by each member during this period have not gone unnoticed. Your commitment ensures the continued success of our association.

Looking ahead to October, we anticipate another busy schedule, focusing on income tax and ROC compliance. Your expertise and diligence in these matters are crucial, and I have full confidence in the capabilities of our members.

In the midst of these professional commitments, I want to take a moment to emphasize the importance of your well-being. Our work is demanding, but it's crucial to find moments for self-care. I sincerely hope each of you is maintaining a balance between professional and personal life.

Thank you for your continued support and dedication to Siliguri Taxation Bar Association. Your involvement is what makes our association a thriving community of professionals. As always, my door is open for any suggestions or concerns you may have.

October is the month of festivals. I pray to Maa Durga to bless you and your loved ones with her nine forms of blessings i.e. fame, name, wealth, happiness, prosperity, education, health, power and commitment. Have a happy & blessed Durga Puja!

Wishing you all a healthy and prosperous festive season

With heartfelt gratitude,

CA Sanjeev Agarwal
President
Siliguri Taxation Bar Association





Dear Esteemed Members

I trust this message finds you in good health and high spirits. As we usher in the October edition of the STBA Newsletter, I am pleased to connect with you all once again.

As October unfolds, it brings with it the vibrant tapestry of India's grand festivities— from the divine dance of Durga Puja and the joyous echoes of Bijoya, to the triumphant spirits of Dussehra, the luminous nights of Diwali, the mystical allure of Kali Puja and many more. Each festival, rich in tradition, reminds us of the perennial cycle of victory, rejuvenation, and celebration that's deeply rooted in our culture.

This issue of the newsletter reflects our commitment to fostering an environment of continuous learning. Our articles delve into a wide array of subjects. I encourage each of you to explore these pages, engaging with the diverse perspectives that shape our field.

As we move forward I encourage each of you to consider the impact of your contributions. Every idea, every interaction and every effort propels us towards our collective goals. Together we can continue to shape the trajectory of our field, driving progress and inspiring positive changes.

I would like to express my sincere appreciation to our members who work tirelessly behind the scenes, ensuring the smooth functioning of our organizations. Your dedication is the backbone of our success, and I am grateful for the opportunity to work alongside you.

Best regards

Vinit Agarwal, Advocate
Secretary
Siliguri Taxation Bar Association





Dear Readers,

Greetings from the editorial team of the STBA Newsletter! We hope this message finds you well and that you will enjoy the valuable insights and updates we will provide on taxation & other matters.

Taxation is a complex and dynamic field, with frequent updates, amendments, and interpretations. Our team of experts works diligently to stay abreast of these changes and distill them into practical, digestible information for our readers. We aim to cover a wide range of topics, including income tax, GST, Corporate Matters, Finance, Accounting & Audit, among others, to cater to the diverse needs of our readership.

October is the peak season for professionals to deal with income tax return filing, ROC filing and various other compliances. Please refer compliance calendar incorporated in this issue.

The due date for filing Audit Reports in Form 10B/Form 10BB for A.Y. 2023–24 has been extended by CBDT from September 30th to October 31st, 2023.

The due date for filing Return of Income in ITR-7 for A.Y. 2023–24 has been extended by CBDT from October 31st to November 30th, 2023

We understand that each one of you has unique circumstances and requirements when it comes to taxation & related laws. While we endeavor to provide accurate and up-to-date information, we must emphasize that our newsletter should not be considered a substitute for professional advice. It is essential to refer to relevant laws or seek guidance from relevant authorities to address your specific concerns.

I request our members to please come forward and contribute your valuable insight by way of articles on various topics and areas related to our profession. Members can also send case studies on cases relating to Income Tax, GST & other areas, where they themselves attended before the appellate authorities. Case study may be submitted with fact of the case, grounds appealed for and outcome of the case. This would help our fellow members in enriching their practical knowledge.

Any suggestions, queries or articles on any matter may be mailed to us at manishslg@icai.org. Thank you for being a part of our community. We look forward to bringing you more informative content in the coming months.

With warm Regards

CA. Manish Agarwal
Editor & Chairman – Newsletter Committee
Siliguri Taxation Bar Association

Judicial Pronouncements – Direct taxes

Order	Case Name	Brief Details
Services rendered outside India but used in India is taxable in India	Metso Outotec OYJ Vs DCIT (ITAT Kolkata) Date: 29.08.2023	ITAT Kolkata held that the assessee has no permanent establishment in India and these services were also rendered outside India but the services have been used in India and, therefore, it is taxable in India.
Income Surrendered During Survey Not Taxable at 60% under Section 115BBE	Yogesh Kumar Vs PCIT (ITAT Delhi) Date: 30.08.2023	The ITAT Delhi's ruling in favor of the assessee provides clarity on the taxation of additional income surrendered during survey proceedings. The decision underscores the importance of specifying the relevant provisions of the Income Tax Act when revising an assessment. In this case, the lack of clarity in the revision order led to the restoration of the original assessment, providing relief to the assessee. The ITAT Delhi's decision in the Yogesh Kumar vs. PCIT case highlights the significance of clear findings and proper application of tax provisions. The ruling ensures that additional income surrendered during survey proceedings is taxed in accordance with the applicable provisions, avoiding undue tax liability on the assessee.
No Section 44ADA Addition for Consultancy Income by 10th-Passed Assessee	Vishnu Dattatraya Ponkshe Vs Central Processing Centre (ITAT Mumbai) Date: 30.09.2023	The ITAT Mumbai's decision in the Vishnu Dattatraya Ponkshe vs. Central Processing Centre (CPC) case brings clarity to the taxation of income earned from a consultancy business. The ruling underscores the importance of correctly applying the provisions of the Income Tax Act and highlights that Section 44ADA is specific to certain professions, excluding consultancy businesses in this context. This decision sets a precedent for similar cases, ensuring fair and accurate tax assessments for businesses like consultancies.



Judicial Pronouncements – Indirect taxes

Order	Case Name	Brief Details
Seizure of cash on suspicion that it was unaccounted cash by GST authorities is illegal: Delhi HC	Goyal Metal Udyog Vs Commissioner of Central Goods & Services Tax & Anr (Delhi High Court) Date: 22.08.2023	The Delhi High Court's decision in the Goyal Metal Udyog case reinforces the importance of adhering to legal procedures in seizing cash. The court's ruling emphasized that cash cannot be seized merely on suspicion of being unaccounted money, as such actions are illegal. This judgment serves as a reminder of the need for authorities to follow due process and respect the rights of taxpayers. It also clarifies the rights of taxpayers to seek immediate release and potential refunds in similar situations.
Non-Reflection in GSTR-2A Insufficient for Denying Input Tax Credit	Diya Agencies Vs State Tax Officer (Kerala High Court) Date:12.09.2023	The Hon'ble Kerala High Court in Diya Agencies vs The State Tax Officer [WP(C) No. 29769 of 2023 dated September 12, 2023] held that, if the taxpayer is able to prove that tax amount is paid to the seller and the Input Tax Credit claim is bonafide so the Input Tax Credit cannot be denied merely on non-reflection of transaction in GSTR-2A.
GST Applicability for School Transport Services: AAR Tamil Nadu Ruling	In re Muniyasamy Abhinaya (GST AAR Tamil Nadu) Date: 25.08.2023	In conclusion, the AAR ruling in Tamil Nadu clarifies that transportation services exclusively provided to students and staff of higher secondary schools, with permits in the school's name, are exempt from GST under SI.No.66(b) of Notification No. 12/2017-Central Tax (rate) dated 28.06.2017. This exemption extends to the fees collected directly from parents. However, it's crucial to have proper agreements in place with educational institutions and adhere to relevant regulations for this exemption to apply.
Advocate's Failure to Inform Client Doesn't Justify Appeal Delay: Court Ruling	Manoj Steel Traders Vs State Of U.P. And 2 Others (Allahabad High Court) Date: 23.08.2023	The judgment makes it clear that the legal responsibility lies with the petitioner to be aware of orders communicated to their advocate. The court upheld the stringent application of limitation periods and clarified that a failure on the advocate's part to communicate an order to the client does not offer grounds for condonation of delay. Thus, businesses and legal practitioners should exercise caution and due diligence to avoid such pitfalls.
Police & GST Dept. cannot issues Notices to Advocate appearing for client	Himangshu Kumar Ray Vs State of West Bengal (Calcutta High Court) Date: 14.06.2023	The case of Himangshu Kumar Ray Vs State of West Bengal underscores the importance of safeguarding the client-advocate privilege and sets forth guidelines for the authorities to follow in their investigations. The ruling is a reminder that legal provisions must be understood and implemented carefully, respecting the boundaries of each entity involved, whether it be the legal profession or law enforcement agencies. It serves as a precedent that protects the privacy and rights of both advocates and their clients, thereby upholding the integrity of the legal system

CBIC notifies Central Goods and Services Tax (Third Amendment) Rules, 2023 w.e.f. October 1st, 2023

The CBIC has issued notification under Section 15(5) to notify that the valuation of supply of online gaming, online money gaming and actionable claims in casino will be determined in a notified manner. In this regard, Rule 31B and Rule 31C have been inserted under the CGST Rules to provide the manner of determining the value of supply of online gaming (including online money gaming) and supply of actionable claims in casino respectively. The rules will be made effective from 01-10-2023.

(Notification No. 51/2023-Central Tax, dated 29-09-2023)

28% GST shall be levied on online gaming and Casinos w.e.f. 1.10.2023

The government has issued a notification to provide that the actionable claims classified as 'specified actionable claims' under Section 2(102A) of the CGST Act, 2017 would be leviable to GST at the rate of 28% with effect from 01-10-2023. This includes the supply of actionable claims involved in or by way of betting, casinos, gambling, horse racing, lottery, and online money gaming.

It has further been notified that where a word or expression is not defined in the rate notification, notification no. 01/2017- Central Tax (Rate), but the same has been defined in the GST law, the same meaning would be assigned to it for the purpose of the rate notification.

(Notification No. 11/2023-Central Tax (Rate), dated 29-09-2023)

Recommendations of 52nd GST Council Meeting held on 07 Oct 2023 at New Delhi

The important procedure related recommendations of 52nd GST Council Meeting held on 07 Oct 2023 at New Delhi are as follows:

(1) Amnesty Scheme for filing of appeals where appeal could not be filed within the allowable time period

The Council has recommended an amnesty scheme who could not file an appeal against the demand order passed on or before the 31st day of March, 2023, or whose appeal against the said order was rejected solely on the grounds that the said appeal was not filed within the time period, upto 31st January 2024, subject to the condition of payment of an amount of extra pre-deposit of 2.5% of the tax through Electronic Cash Ledger.

(2) Clarifications regarding taxability of personal guarantee offered by directors to the bank against the credit limits/loans being sanctioned to the company and regarding taxability of corporate guarantee provided for related persons including corporate guarantee provided by holding company to its subsidiary company

The Council has recommended to issue a circular clarifying that no GST is to be levied when no consideration is paid by the company to the director in any form, directly or indirectly, for providing personal guarantee to the bank/ financial institutes on their behalf. In case of companies, the taxable value of supply of corporate guarantee provided between related parties as one per cent of the amount of such guarantee offered, or the actual consideration, whichever is higher.

(3) Provision for automatic restoration of provisionally attached property after completion of one year

The Council has recommended to provide that the order for provisional attachment shall not be valid after expiry of one year from the date of the said order. This will facilitate release of provisionally attached properties after expiry of period of one year, without need for separate specific written order from the Commissioner.

(4) Clarification on various issues related to Place of Supply

The Council has recommended to issue a Circular to clarify the place of supply in respect of (i) Supply of service of transportation of goods, including by mail or courier, in cases where the location of supplier or the location of recipient of services is outside India; (ii) Supply of advertising services; and (iii) Supply of the co-location services.

(5) Issuance of clarification relating to export of services

The Council has recommended to issue a circular to clarify the admissibility of export remittances received in Special INR Vostro account, as permitted by RBI, for the purpose of consideration of supply of services to qualify as export of services.

(6) Allowing supplies to SEZ units/ developer for authorised operations for IGST refund route by amendment in Notification 01/2023-Integrated Tax dated 31.07.2023

The Council has recommended to allow the suppliers to a SEZ developer or a SEZ unit for authorised operations to make supply of goods or services (except the commodities like pan masala, tobacco, gutkha, etc.) to the SEZ developer or the SEZ unit for authorised operations on payment of integrated tax and claim the refund of tax so paid.

(7) Alignment of provisions of the CGST Act, 2017 with the provisions of the Tribunal Reforms Act, 2021 in respect of Appointment of President and Member of the proposed GST Appellate Tribunals

The Council has recommended amendments to provide that an advocate having ten years of experience in litigation under indirect tax laws to be eligible for the appointment as judicial member; the minimum age for eligibility for appointment as President and Member to be 50 years; & President and Members shall have tenure up to a maximum age of 70 years and 67 years respectively.

(8) Law amendment with respect to ISD

GST Council in its 50th meeting had recommended that ISD (Input Service Distributor) procedure as laid down in Section 20 of the CGST Act, 2017 may be made mandatory prospectively for distribution of ITC in respect of input services procured by Head Office (HO) from a third party but attributable to both HO and Branch Office (BO) or exclusively to one or more BOs. The Council has now recommended amendments in Section 2(61) and section 20 of CGST Act, 2017 as well amendment in rule 39 of CGST Rules, 2017 in respect of the same.

(9). Advisory in respect of introduction of compliance pertaining to DRC-01C (Difference in Input Tax Credit (ITC) available in GSTR-2B & ITC claimed in the GSTR-3B)

GSTN (Goods and Services Tax Network) has issued an advisory regarding intimation issued under Form GST DRC-01C, which deals with discrepancies between ITC available in GSTR-2B and the ITC claimed in GSTR-3B. This compliance functionality has been implemented on the GSTN Portal, and the system will now compare the ITC available in GSTR-2B with the ITC claimed in GSTR-3B for each return period. Where monthly return is required to be filed, comparison would be done on monthly basis and for QRMP returns, the comparison would be done on quarterly basis.

In accordance with Rule 88D of the CGST Rules 2017, if the ITC available in GSTR-2B exceeds a predefined limit in comparison to the ITC claimed in Form GSTR-3B/3BQ for a specific return period, or if the percentage difference between the ITC available as per GSTR-1 exceeds the predefined limits in relation to the ITC claimed in Form GSTR-3B for a return period, an intimation would be sent to the taxpayer. The taxpayer is required to respond to this notification in Part B of Form DRC-01C.

The taxpayer has the option to either provide details of the payment made to settle the difference using Form DRC-03 or provide an explanation for the difference out of the options provided in the form or even choose a combination of both options and file it. It's important to note that if a taxpayer fails to respond to Form GST DRC-01C for the previous tax period, they will not be able to file their Form GSTR-1/IFF for the subsequent tax period.



Compliance Calendar for October 2023

Due dates in October 2023	Form to be filed	Period	Details
7	Challan 281	Sep-23	Payment of Income Tax TCS & TDS collected in September 2023
10	GSTR 7	Sep-23	GSTR-7-Monthly Return by Tax Deductors for September 2023
10	GSTR 8	Sep-23	GSTR-8-Monthly Return by E-Commerce operators for Sep 2023
11	GSTR 1	Sep-23	Taxpayers having an aggregate turnover of more than Rs. 5 Crores or opted to file Monthly GSTR-1 Return
13	GSTR 6	Sep-23	GSTR-6-Monthly Return of Input Service Distributor for Sep 2023
13	GSTR1/IFF	Sep-23	GSTR-1 / IFF – Optional for Taxpayers who have opted for QRMP
13	GSTR 5	Sep-23	GSTR 5 Return for Non-Resident Taxable Person for the month of September 2023
14	Form ADT-1	FY 2023-24 & onwards	For Appointment of Auditor, companies are required to submit Form ADT 1 within 15 days after the Annual General Meeting (AGM) is completed (for AGM held on 30.09.2023)
15	ESI Challan	Sep-23	ESI payment for September 2023
15	ECR	Sep-23	E-payment of Provident Fund for September 2023
15	Form No. 27EQ	Q2 of FY 2023-24	Quarterly statement of TCS deposited for the quarter ending September 30, 2023
20	GSTR 3B	Sep-23	GSTR 3B Summary of Outward and Inward Supplies for the payment of Tax for September 2023
20	GSTR 5A	Sep-23	GSTR 5A Return for Non-Resident Taxable Person for the month of September 2023
21	PTAX	Sep-23	Monthly Employees Professional tax payment for Sep 2023 in WB
25	PMT-06	Sep-23	Payment of tax in PMT-06 by a registered person who has opted to file return under QRMP Scheme in PMT-06 – challan for September 2023
28	GSTR-11	Sep-23	Due date for filing GSTR-11- Statement for Inward supplies by persons having UIN for claiming GST Refund
29	Form AOC-4	FY 2022-23	Form AOC-4, Form AOC-4 XBRL & Form AOC-4 CFS (Filing of Annual Accounts). Within 30 days of the conclusion of the AGM (for AGM held on 30.09.2023)
30	Challan	Sep-23	Last date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M, 194S in the month of September 2023.
30	Form LLP - 8	FY 2022-23	Statement of Account and Solvency for LLPs. Within 30 days from the end of 6 months of the financial year to which the statement relates.
31	Form 3CD	FY 2022-23	Audit report under section 44AB for FY 2022-23 in the case of an assessee who is also required to submit a report pertaining to international or specified domestic transactions under section 92E
31	Form 3CEB	FY 2022-23	Report to be furnished in Form 3CEB in respect of international transaction and specified domestic transaction.
31	ITR form	FY 2022-23	Due date for filing of return of income for the assessment year 2023-24 if the assessee (not having any international or specified domestic transaction) is (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited or the spouse of such partner if the provisions of section 5A apply
31	Form No. 26Q & 27Q	Q2 of FY 2023-24	Quarterly statement of TDS deposited for the quarter ending September 30, 2023
31	Form 10B/10BB	FY 2022-23	Furnishing of Audit report in Form no. 10B/10BB by a fund or trust or institution or any university or other educational institution or any hospital or other medical institution.
31	MSME 1	Apr 23 to Sep 23	Form MSME-1 (Half Yearly Form for Outstanding Payment To MSME) reporting by companies

Programs of STBA in October 2023 (Tentative)

- 7th October – Executive Committee Meeting of STBA & STBMWO

Advisory: Time limit for Reporting Invoices on the IRP Portal

- 1.It is to inform you that it has been decided by the Government to impose a time limit on reporting old invoices on the e-invoice IRP portals for taxpayers with AATO greater than 100 crores.
- 2.To ensure timely compliance, taxpayers in this category will not be allowed to report invoices older than 30 days on the date of reporting.
3. Please note that this restriction will apply to the all document types (Invoices/Credit note/Debit note) for which IRN is to be generated.
- 4.For example, if an invoice has a date of November 1, 2023, it cannot be reported after November 30, 2023. The validation built into the invoice registration portals will disallow the user from reporting the invoice after the 30 days window. Hence, it is essential for taxpayers to ensure that they report the invoice within the 30 days window provided by the new time limit.
- 5.It is further to clarify that there will be no such reporting restriction on taxpayers with AATO less than 100 crores, as of now.
- 6.In order to provide sufficient time for taxpayers to comply with this requirement, which may require changes to your systems, it is proposed to implement it from 1st November 2023 onwards.

SCAN & PAY YOUR ANNUAL MEMBERSHIP FEE

Members are requested to remit their annual membership fee by:

- Scanning the QR code
- UPI: boism-8918395245@boi
- NEFT to: Bank of India, BKID0004291, 429110100001248
- Cheque in favour of Siliguri Taxation Bar Association
- Cash against money receipt to Mr Mritunjy Dhar – 89183 95245



Connect with Treasurer, CA Rahul Agarwal, # 9832355580 for any queries.

BECOME A MEMBER OF Siliguri Taxation Bar Association

Features:

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- One time Admission Fee Rs 3,000/-
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- Networking with pool of other professionals

Visit our website for Admission form & more details

www.siliguritaxationbar.org

Get in touch with

Treasurer – CA Rahul Agarwal 98323 55580

Staff - Mr Mritunjoy Dhar – 89183 95245

BECOME A MEMBER OF Siliguri Taxation Bar Mutual Welfare Organization

Features:

- Open for members of STBA
- Term Insurance cover of Rs 5 Lacs
- Premium One time Rs 5,000/-
- Premium Yearly Rs 3,000/-

Members are requested to remit their premium by:

- Scanning the QR code
- UPI: MAB.037133000352513@AXISBANK
- RTGS / NEFT to: Axis Bank Ltd., UTIB0000035, 919010020911520
- Cheque in favour of Siliguri Taxation Bar Mutual Welfare Organization
- Cash against money receipt to Mr Mritunjoy Dhar – 89183 95245



For details connect with:

Vice President, STBMWO, Adv Bibhuti Kumar Thakur, # 94347 43394

Treasurer, CA Rahul Agarwal, # 98323 55580

Office Staff, Mr Mritunjoy Dhar , # 89183 95245

PROGRAMS HELD IN THE MONTH OF SEPTEMBER 2023



Seminar on Income Tax & Audit held on 8th September, 2023 at Hotel Dolly Inn



Felicitation of Shri Bipul Sharma, Advocate & Shri Biswaraj Agarwal, Advocate for their accomplishments in the field of taxation on 8th September 2023

PROGRAMS HELD IN THE MONTH OF SEPTEMBER 2023



Interactive meeting with Special Commissioner, SGST and Additional Commissioner, SGST on issues faced by members held on 20th September, 2023 at GST Bhawan

Forthcoming Events

✓ General Meeting of Members	1 st Week of November 2023 – Tentative
✓ Overseas Educational Tour for Members	End of November 2023 – Tentative
✓ Box Cricket for Members	10 th December 2023